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10/783,585	02/19/2004	Herve Marche	034299-567	7714

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EXAMINER

GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/783,585

Applicant(s)

MARCHE, HERVE

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/22/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election of Species*

Applicant's election of species II, Fig. 3, claims 1-5, in the reply filed on September 6, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant asserts on the third paragraph of page 3 of the response filed on 9/6/05 that claim 2 is readable on elected Figure 3. The examiner disagrees because rotation prevention means are not present in the elected Figure 3.

Claim 2 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/6/05.

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "36" has been used to designate both a suspended structure without plates (Fig. 1) and another suspended structure with plates 70 (Fig. 2).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "54" has been used to designate both a load bearing structure with a cylindrical hole (Figs. 1 and 2) and a load bearing structure with a spherical opening (Fig. 3).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "70" has been used to designate both plates without intermediate parts and projecting from a suspended structure (Fig. 2) and plates with intermediate parts 74 (Fig. 3).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "50" and "52" has been used to designate both a disk shaped part with one configuration (Figs. 1 and 2) and a disk shaped part having a second configuration (Fig. 3).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "48" has been used to designate both a hinge pin with one configuration (Figs. 1 and 2) and a hinge pin with a second configuration (Fig. 3).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the suspended

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structure (claim 1), and the U-shaped clevis (claim 3) must be shown in Figure 3 or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to because the axes in Figure 3 need to be labeled.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes", "According to the invention," etc.

### ***Claim Objections***

Claims 1 and 3-5 are objected to because of the following informalities:

regarding claim 1, "so as to be able to rotate" in lines 3 and 5 should twice be --rotatable--;

regarding claim 3, "in the form" in line 2 should be deleted;

regarding claim 4, --the-- needs to be inserted after "of" in line 1, "preferably" in line 2 should be --respectively--, "the corresponding one of" in line 2 should be deleted, "said" in line 3 should be deleted, "surfaces in the form of portions of spheres" in line 4 should be --spherical surfaces--, "type" in line 4 should be deleted, "said" in line 5 should be --first--; and,

regarding claim 5, "surfaces in the form of portions of spheres" in line 3 should be --spherical surfaces--, --spherical-- should be inserted before "surfaces" in line 4, and ", in the form of portions of spheres" should be deleted. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, the metes and bounds of the claim is unclear. Claim 1 sets forth at least one first part in line 2, yet each of the two plates requires one first part in lines 3-4, which requires at least two first parts. Therefore, another first part needs to be recited. Further, is "a first part" in line 3 the same "at least one first part" recited in claim 1, line 2, or another first part.

Regarding claim 5, the metes and bounds of the claims is unclear. Since claim 4 sets forth "surfaces in the form of portions of spheres" in line 4, it makes unclear whether the portions of spheres recited in claim 5, line 7 and in line 4, are the same portions of spheres or a set of three portions of spheres (one set recited in claim 4 and two recited in claim 5).

Regarding claim 4, the claim depends from claim 3 and therefore is indefinite.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 3-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,938,855. Although the conflicting claims are not identical, they are not patentably distinct from each other because the same components are being claimed using different names.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –



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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Bridges, 3,880,444 (see marked-up attachment).

Regarding claim 1, Bridges discloses, in Figure 3, an articulate junction device between a suspended structure **2** and a load bearing structure **9**. The device comprises a hinge pin **3**, at least one first part **4**, and a second part **11**. The first part **4** installed in the suspended structure **2** and rotatable about a first axis **A6**. The second part **11** is installed in the load bearing structure **9** and rotatable about a second axis **A7**. The hinge pin **3** passes through the first part **4** and the second part **11**. The first axis **A6** and the second axis **A7** are parallel to each other and offset from each other.

Regarding claim 3, the suspended structure **2** is a U-shaped clevis comprising two plates **12** parallel. The load bearing structure **9** is placed in between the two plates **12**. The first part **4** and another first part **4** are respectively fitted in each of the plates **12**.

Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshioka, 4,026,572.

Regarding claim 1, Yoshioka discloses, in Figure 31, an articulate junction device between a suspended structure **8** and a load bearing structure **9**. The device comprises a hinge pin **3a**, at least one first part **4f**, and a second part **4j**. The first part **4f** is installed in the suspended structure **8** and rotatable about a first axis **P**. The second part **4j** is installed in the load bearing structure **9** and rotatable about a second axis **O**. The hinge pin **3a** passes through the first part **4f** and the second part **4j**. The first axis **P** and the second axis **O** are parallel to each other and offset from each other.

Regarding claim 3a, the suspended structure **8** is a U-shaped clevis comprising two plates **2** parallel to each other. The load bearing structure **9** is placed in between the two plates **2**. The first part **4f** and another first part **4f** are respectively fitted in each of the plates **2**.

Regarding claim 4, each first part **4f** is respectively installed in the two plates **2** of the suspended structure. The first parts **4f** cooperate with the two plates **2** in the suspended structure **8** through spherical surface together defining a ball joint connection between the plates and the first parts **4f** (see col. 22, lines 8-11).

Regarding claim 5, intermediate parts **6a** form ball joint cages fixed in each of the two plates **2** and cooperate through internal spherical surfaces with external spherical surfaces of the first parts **4f** (see col. 22, lines 8-11). Applicant should recognize that the bearing bushing **6a** is made spherical as shown in Figure 40.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*E.G.*

E.G.

November 4, 2005

Attachment: one marked-up page of Bridges 3,880,444

*Daniel P Stodola*

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